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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,403	09/29/2005	Goro Shiraishi	SI459.70086US00	4461

23628 7590 12/18/2006

WOLF GREENFIELD & SACKS, PC  
FEDERAL RESERVE PLAZA  
600 ATLANTIC AVENUE  
BOSTON, MA 02210-2206

EXAMINER
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MILLIKIN, ANDREW R

ART UNIT	PAPER NUMBER
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2892

DATE MAILED: 12/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

34

<b>Office Action Summary</b>	<b>Application No.</b> 10/551,403	<b>Applicant(s)</b> SHIRAISHI ET AL.	
	<b>Examiner</b> Andrew Millikin	<b>Art Unit</b> 2892	

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>092905</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 11-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Detecting, identifying, calculating, and setting have no tangible, real-world result. Claims 18-20, on the other hand, display an image, which, being a tangible, real-world result, renders the claims statutory regarding 35 U.S.C. 101.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7 & 11-17 rejected under 35 U.S.C. 102(b) as being anticipated by Yamada et al. (U.S. Patent No. 5,614,687, hereafter '687).

Claims 1, 11: '687 teaches a tempo analyzing apparatus and method associated with it comprising the steps of: detecting positions of a plurality of ones, higher than a predetermined threshold, of peaks of change in level of an input sound signal; detecting

a time interval between the detected peak positions in a predetermined unit-time interval; and identifying a tempo of sound to be reproduced with the sound signal on a basis of one, having occurred at a high frequency, of the detected time intervals (see abstract).

Claims 2, 12: '687 teaches the apparatus as in claim 1 and the method associated with the apparatus according to claim 11, wherein for the identification of a tempo, the frequency of occurrence of a time interval between the peak positions detected in a plurality of the unit-time intervals is accumulated and the tempo of the sound to be reproduced is identified on the basis of the frequency of occurrence thus accumulated (column 3, lines 58-67 & column 4, lines 1-4).

Claims 3-4 & 13-14: '687 teaches the method according to claim 11, further comprising the steps of: dividing the input sound signal into a plurality of frequency bands ('687 divides the input sound signal into three bands: a lower stopped band; a passed band; and a higher stopped band) (column 3, lines 14-17); detecting the peak position in each of at least one or more of the divided frequency bands; detecting the time interval of the peak position in each of the at least one or more frequency bands; and identifying the tempo of the sound to be reproduced on the basis of the one, having occurred at a high, of the time intervals detected in each of at least one or more frequency bands (column 3, lines 58-67 & column 4, lines 1-4).

Claims 5-7 & 15-17: '687 teaches the method according to claim 11, further comprising the steps of: calculating a sound volume of the input sound signal; and

detecting a threshold for use to detect the peak position with reference to the calculated sound volume (column 3, lines 23-29).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 8, 10, 18, & 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over '687 as applied to claims 1 & 11 above in view of Yamauchi et al. (U.S. Patent No. 6,140,565, hereafter '565).

Claims 8, 10, 18, & 20: '687 teaches the method according to claim 11, but does not teach selectively reading video data from a plurality of video data stored in a storage means on the basis of the identified tempo; and displaying an image

corresponding to the read video data on an image display device. '565 teaches selectively reading video data from a plurality of video data stored in a storage means on the basis of the identified tempo (column 13, lines 5-26); and displaying an image corresponding to the read video data on an image display device (column 16, lines 20-21; see Fig. 1, top right) in order to provide a method for visually representing a music system (column 1, lines 65-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the method of visualizing music of '565 with the method of determining tempo of '687 in order to have provided a visual representation of the music system.

Claims 10, 20: '565 teaches selectively reading a plurality of video data stored in a storage means on the basis of calculated sound volume (column 3, lines 20-28).

7. Claims 9 & 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over '687 as applied to claims 1 & 11 in view of '565 as applied to claims 8 & 18 and further in view of Kellock et al. (U.S. Patent Application Publication 2004/0027369, hereafter '369).

'565 teaches the method according to claim 18, but doesn't teach the step of controlling size, moving speed and moving pattern of the image to be displayed on the image display device. '369 teaches that controlling size, moving speed and moving pattern of an image to be displayed on an image display device [0051, 0086] helps allow for automated editing of digital video [0008]. Therefore, it would have been

obvious to one of ordinary skill in the art at the time the invention was made to have controlled the size, moving speed, and moving pattern of the visual representation of '565 in order to have allowed for better automated editing of the digital video output.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Millikin whose telephone number is 571-270-1265. The examiner can normally be reached on M-R 6:30-4 and 6:30-3 Alternating Fridays (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Cleveland can be reached on 571-272-1418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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A handwritten signature, possibly reading 'AM', in black ink.A handwritten signature in black ink, appearing to read 'Michael B. Cleveland'.

MICHAEL B. CLEVELAND  
SUPERVISORY PATENT EXAMINER